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LETTER DATED 18 JANUARY 1993 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to your presidential statement of 8 January 1993 (S/25079) in which you requested me to undertake a full investigation into the killing earlier that day of Mr. Hakija Turajlic, Deputy Prime Minister for Economic Affairs of Bosnia and Herzegovina, and to report to the Council without delay.

On 11 January, I appointed a Special Commission of Inquiry to investigate this incident. The Special Commission was jointly headed by Sahabzada Yaqub-Khan (Pakistan), former Foreign Minister of Pakistan and currently serving as my Special Representative for Western Sahara, and Lieutenant-General Lars-Eric Wahlgren (Sweden), Commander of the United Nations Interim Force in Lebanon. The Commission of Inquiry convened in Geneva on 12 January and visited the UNPROFOR mission area from 13 to 15 January 1993. Mr. Yaqub-Khan and General Wahlgren have today submitted to me their report, which I intend to publish in full (see annex). I shall also provide a copy of the report to the Government of Bosnia and Herzegovina, through their Permanent Mission here.

Pending publication of the report, I should like to draw your attention to the following points made by the Commission of Inquiry, which are relevant to the concerns expressed by members of the Security Council on 8 January 1993:

(a) It is not part of UNPROFOR's mandate as approved by the Security Council to escort members of the Presidency of the Government of Bosnia and Herzegovina to and from Sarajevo airport. However, UNPROFOR has provided this service as a courtesy to the host Government;

(b) The request by the Presidency to UNPROFOR on 8 January 1993 to provide one armoured personnel carrier (APC) to bring an official delegation to Sarajevo airport was not in conformity with established procedures. The notice was very short: the request was made at 1230 hours to transport six officials from the Presidency to the airport at 1300 hours. The list of the officials to be transported was not communicated, nor was UNPROFOR aware that one of the six, Mr. Turajlic, was a Deputy Prime Minister and that he would be returning to the city alone. Not until the time of the incident itself was UNPROFOR aware of the identity of the personality being transported;

(c) As a result of the above, UNPROFOR failed to adhere to the standing operating procedures normally applied to the escort of civilian VIPs, including prior reconnaissance, an adequate strength of APCs and special briefings on the procedures to be followed;

(d) A considerable degree of mistrust surrounds the Sarajevo airport operation and is exacerbated by Bosnian-Serb suspicions about flights from certain countries known to be supporting the Government of Bosnia and Herzegovina. False rumours alleging that 60 "Mujahedin" had been flown in on the very aircraft Mr. Turajlic had gone to meet had added to the atmosphere of tension at the Serb check-point that day;

(e) UNPROFOR does not enjoy full freedom of movement in Bosnia and Herzegovina despite the 5 June 1992 agreement, which provides for security corridors to be established between the airport and the city under the control of UNPROFOR. As a result, UNPROFOR's vehicles and APCs are regularly subject to controls and inspection at check-points manned by all parties to the conflict in Bosnia and Herzegovina;

(f) On the basis of its inquiries into the specific circumstances surrounding the incident, the Special Commission concluded that the assassination was the work of a single assailant acting unilaterally.

In addition to the above points, the Commission makes specific recommendations relating to various aspects of UNPROFOR's functioning in Bosnia and Herzegovina, which are being studied by my staff. The full report will be made available to the Council as soon as it can be translated and printed (see annex).

(Signed) Boutros BOUTROS-GHALI

Annex

Report of the Special Commission of Inquiry into the assassination of Mr. Hakija Turajlic, Deputy Prime Minister of Bosnia and Herzegovina, on 8 January 1993

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INTRODUCTION

1. The composition of the Special Commission of Inquiry into the assassination on 8 January 1993 of a Deputy Prime Minister of Bosnia and Herzegovina, Mr. Hakija Turajlic, convened on the authority of the Secretary-General of the United Nations, was as follows:

Mr. Sahabzada Yaqub-Khan	Co-Chairman
Lieutenant-General Lars-Eric Wahlgren	Co-Chairman
Colonel Charles Corberand	Member
Colonel Roel Kampman	Member

2. The Special Commission was assisted by:

Ms. Leila Benkirane	Legal Officer
Mr. Donato Kiniger-Passigli	Civil Affairs Officer
Captain Cathal O'Neill	Secretary

3. The Special Commission worked according to the programme attached as appendix II.

4. The mandate of the Commission was as follows:

(a) To establish the facts and circumstances relating to the incident;

(b) To assess whether the relevant procedures were followed by the United Nations Protection Force (UNPROFOR) units and personnel concerned;

(c) To assess whether those procedures were appropriate to the circumstances in which UNPROFOR was operating in Sarajevo;

(d) To make appropriate recommendations.

5. The members of the Special Commission were authorized to make such contacts as they found necessary with the Government of Bosnia and Herzegovina, the Bosnian-Serb leadership, the Force Commander of UNPROFOR and the personnel under his command and any other persons they deemed appropriate.

6. The Commission was required to report to the Secretary-General not later than 18 January so that he could present the report requested of him by the Security Council in the President's statement of 8 January (S/25079).

7. The documents on which the inquiry centred and on which the evaluation was based are as follows:

(a) Mandate of UNPROFOR, in particular Security Council resolutions 743 (1992), 749 (1992), 761 (1992) and 776 (1992);

(b) Guideline standing operating procedure;

(c) UNPROFOR headquarters standing operating procedure;

(d) Bosnia and Herzegovina Command standing operating procedure;

(e) Sector Sarajevo standing operating procedure;

(f) Unit (Headquarters Company/Sector Sarajevo) standing operating procedure;

(g) Military Police report annex;

(h) Summaries of briefings and statements as attached.

8. Additional documents were given to the Commission by the officials of the Government of Bosnia and Herzegovina.

I. GENERAL

A. UNPROFOR mandate and background

9. On 21 February 1992, the Security Council, by its resolution 743 (1992) approved the establishment of UNPROFOR for a period of 12 months. The Council confirmed that the Force should be an interim arrangement to create the conditions of peace and security. In resolution 749 (1992), the Council authorized the full deployment of the Force.

10. Security Council resolution 761 (1992), of 29 June 1992, provided that UNPROFOR should ensure the security and functioning of Sarajevo airport and the delivery of assistance in accordance with the Secretary-General's report dated 6 June 1992 where it was stipulated that UNPROFOR would

> "take over full operational responsibility for the functioning and security of Sarajevo airport. UNPROFOR would ensure the immediate security of the airport and its installations, supervise the operation of the airport (using as far as possible its present civilian employees), control its facilities and organization, facilitate the unloading of humanitarian cargo and ensure the safe movement of humanitarian aid and related personnel." (S/24075, para. 4)

11. In the report of the Secretary-General on Bosnia and Herzegovina dated 10 September 1992 and approved by the Security Council in resolution 776 (1992) UNPROFOR was mandated

> "to support UNHCR's efforts to deliver humanitarian relief throughout Bosnia and Herzegovina and in particular to provide protection, at UNHCR's request, where and when UNHCR considered such protection necessary". (S/24540, para. 3)

12. The escorting of officials of the Presidency of Bosnia and Herzegovina is not based on the mandate of UNPROFOR in Bosnia and Herzegovina but on a practice which has evolved in the area.

B. Environment

13. The following features that have characterized the difficult environment in which UNPROFOR operations have had to be carried out should be kept in mind:

(a) Systematic procedures have been dislocated by frequent shelling, disturbance of the civic life of cities and the attendant confusion and disorder;

(b) Many of the freshly arrived units in the area had no experience or training for peace-keeping operations;

(c) In addition to the complex political and military situation that prevailed, the interruption of vehicular movement militated against operational efficiency;

(d) Rapid changes in the situation called for equally rapid changes of mandate and geographical location of headquarters and redeployment of units and their logistical support;

(e) A complicated command structure inhibited flexible operational control;

(f) The frequency of visits of high authorities and insistent requests from local authorities for such visits at short notice and without proper documentation imposed a severe strain on the resources of the command at various levels and led to errors and omissions, with grave consequences;

(g) The psychological strain on commanders at all levels to solve operational dilemmas between overreaction and underreaction, with limited military capability, in a peacemaking or peace-keeping mission must also be recognized.

II. FACTS AND CIRCUMSTANCES RELATING TO THE INCIDENT

14. On 8 January 1993 a Turkish flight, planned and approved by the Office of the United Nations High Commissioner for Refugees (UNHCR), landed in Sarajevo airport at 1500 hours. The UNPROFOR Sector of Sarajevo was requested at 1230 hours by the Presidency of Bosnia and Herzegovina to provide one armoured personnel carrier (APC) to bring an official delegation to the airport.

15. This request was not in conformity with UNPROFOR procedures. The notice was too short. The list of people to be transported was not communicated. However, the request was accepted as a matter of simple routine by the Sector, which is accustomed to the practice of providing transport to the Presidency. Furthermore, its attention was not drawn to the identity of Mr. Turajlic.

16. At 1300 hours one APC arrived at the Presidency and transported six people to the airport without any incident. On its way back to Sarajevo it

was blocked at 1630 hours at a check-point 400 metres from the airport. This check-point had just been activated by the Serbs, who had been alarmed by the arrival of the Turkish aeroplane, which was suspected of transporting armed mujahidin to fight alongside the Bosnian Muslims. At that time Mr. Turajlic was the only passenger in the APC. His identity was still unknown to UNPROFOR. The rest of the Bosnian delegation had boarded the Turkish plane.

17. At the check-point, the APC's crew showed their identification papers as requested, but the passenger refused to do so. To enable the identity to be checked the rear doors of the APC had been opened by the crew and reclosed immediately thereafter. The Operations Room, having been informed, sent the Serbian Liaison Officer from Sector Headquarters to the spot. He arrived at 1700 hours and stayed five minutes in the APC to confer with Mr. Turajlic, who showed him his passport.

18. At 1710 hours Colonel Sartre, Commanding Officer of the French Battalion, arrived at the check-point. He firstly cleared the passage for two United Kingdom and two Ukrainian APCs, which passed through the check-point. He, thereafter, did his best to calm down the agitated crowd while blocking the entrance to the APC, the doors of which could not be closed after the departure of the Serbian Liaison Officer because of the pressure of the crowd.

19. Simultaneously, Colonel Sartre conducted negotiations with the Serbian leaders. The tension, at that time, was so high that Colonel Sartre drew his pistol.

20. During this period he was in radio contact with the Sector Operations Room. When he learned that the Serbs had cleared the movement of the APC carrying the Deputy Prime Minister, the tension abated. The Serb leaders at the check-point had agreed not to try to seize Mr. Turajlic but they had no radio communications to obtain confirmation of this decision from their own authorities. Colonel Sartre offered to help the Serbs in establishing the communication they desired. It was at this moment that a Serb, who had been in a high state of excitement, fired a burst from his semi-automatic pistol at Mr. Turajlic over the shoulder of Colonel Sartre, who was still blocking the entrance to the APC. The comrades of the assailant tried to restrain him from firing a second time but failed to prevent him from doing so. Mr. Turajlic collapsed in the APC.

21. Thereafter, the Serbs immediately cleared the road. Mr. Turajlic was driven to the Sector headquarters hospital, where he was pronounced dead.

22. In describing the above event and in view of the reaction of the Serbian officers in restraining the assailant, the Commission gained the impression that the assailant had acted impetuously and on his own initiative in a state of high agitation.

III. EXAMINATION OF RELEVANT STANDING OPERATING PROCEDURES

A. Standing operating procedures in relation to the incident

23. Separate standing operating procedures for escorting high-level civilians existed in the Sector command headquarters, Sarajevo. These standing operating procedures include, among others, the following instructions:

(a) Requests for escorting high-level civilians must be forwarded in writing and be accompanied by a list of persons to be escorted, together with their identity;

(b) The escort required for this type of operation should be composed of the following elements: one reconnaissance APC, an escorting and carrying element of three APCs and, on less than five minutes "standby", a platoon of vehicles as a "rapid reaction element";

(c) A briefing should be given to the escort leader on rules of engagement and other special orders;

(d) The whole escorting operation should be under orders of the operation cell of headquarters Sector Sarajevo.

B. Compliance with relevant standing operating procedures by UNPROFOR units and personnel

24. Generally speaking, headquarters Sector Sarajevo apparently did not seem to consider that the above standing operating procedures were applicable in this case. More precisely, as the request from the Presidency was not conveyed properly in writing and was also not accompanied by a list of persons and their identities, it was not handled as a request for escorting high-level persons. It was dealt with in routine fashion. The reaction of the Sector headquarters to a contingency, namely a short-notice demand to transport Presidency officials was, in the circumstances, as prompt and helpful as possible. Although this request was approved, it was not followed up according to the provisions of the standing operating procedures concerning demands of this kind. In effect, this meant that no reconnoitring was made, that the transporting element was not aware of the identity of the passengers, that no escorting APCs were assigned and that no special briefing on the mission was given. Also, the crew did not know that the provisions of the standing operating procedure that "under no circumstances will the doors of APCs be opened" had to be observed.

C. General rules on safety of personnel

25. This neglect of the provisions of the standing operating procedures mentioned above did not preclude that the normal rules of engagement should apply. These refer to the use of weapons in cases where the safety and lives

of United Nations personnel and the execution of their mission are endangered. These rules must be considered as having been followed as far as possible as is evident from the fact that the crew of the APC loaded their weapons and showed their intention to use them when the crowd threatened to use theirs.

IV. REVIEW OF THE INCIDENT ON THE BASIS OF THE MANDATE OF UNPROFOR IN BOSNIA AND HERZEGOVINA

A. Mandate of UNPROFOR

26. The mandate of UNPROFOR in Bosnia and Herzegovina (see appendix I) as clearly described in the relevant reports of the Secretary-General (S/24075 and S/24540), does not provide for the cooperation that has been extended by UNPROFOR to the Presidency of Bosnia and Herzegovina, namely to escort members of the Presidency in and out of Sarajevo. Irrespective of the merits of the case with regard to the incident itself and in order to review thoroughly the circumstances under which the incident occurred, it is necessary to point out that the checking of UNPROFOR vehicles and personnel at check-points in corridors between the airport and the city is inconsistent with:

(a) The agreement signed on 5 June 1992 by all members of the Presidency of Bosnia and Herzegovina and separately by the Bosnian Serb side on the reopening of Sarajevo airport for humanitarian purposes as annexed to the report of the Secretary-General dated 6 June 1992 (S/24075);

(b) The customary principles and practices of United Nations peace-keeping or similar operations.

27. Paragraph 9 of the above-mentioned agreement signed on 5 June 1992 provides that:

> "9. To ensure the safe movement of humanitarian aid and related personnel, security corridors between the airport and the city will be established and will function under the control of UNPROFOR."

However, the above-mentioned agreement is yet to be implemented and the security corridors referred to therein are not yet under the full control of UNPROFOR.

28. The absence of such control by UNPROFOR was a major contributing factor in this tragic incident, which could have been avoided if the above-mentioned agreement had been properly implemented. The checking imposed on UNPROFOR in corridors between the airport and the city is therefore unwarranted and should be protested against.

29. Moreover, the prevailing practice of subjecting the movement of UNPROFOR vehicles and personnel to Serbian control at check-point impedes the freedom of movement that UNPROFOR should enjoy under the customary principles and

practices of United Nations peace-keeping operations. Provisions to this effect have been included in the draft agreement between the United Nations and Bosnia and Herzegovina on the status of UNPROFOR and its personnel. Although this draft agreement has been extensively negotiated for some considerable time, it has not yet been signed. Nevertheless, by consenting to the presence of UNPROFOR, the authorities of Bosnia and Herzegovina implicitly agree to respect the established practices and principles of United Nations peace-keeping or similar operations, under which freedom of movement is a prerequisite for the performance of their tasks.

B. Increase in airport activity and coordination between UNPROFOR and UNHCR

30. In its resolution 757 (1992) of 30 May 1992, the Security Council demanded, inter alia, that all parties create the conditions necessary for unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina, including the establishment of a security zone encompassing Sarajevo and its airport.

31. Negotiations on the reopening of Sarajevo airport have been in progress since mid-May 1992 in view of the crucial importance of this life-line for the besieged city and for all humanitarian relief operations in Bosnia and Herzegovina. The agreement for the handing over of the airport to UNPROFOR was reached on 5 June 1992 on the basis of a cease-fire agreed upon by all parties on 1 June 1992.

32. The cessation of hostilities was never preserved, but the "humanitarian airport" became, since its reopening on 29 June 1992, the principal channel for the supply operations coordinated by UNHCR. As of 15 January 1993, a total of 2,052 humanitarian flights had landed at Sarajevo airport. In spite of the fact that the airlift was several times disrupted by the resumption of hostilities, a significant increase in the airport's activity has taken place during the past months.

33. Subject to favourable weather conditions, up to 20 UNHCR flights land daily in Sarajevo, delivering their humanitarian cargo; in addition to that, UNPROFOR operational flights are also regularly servicing the same airfield. This escalation of the frequency of the activity at the airport testifies to the success of the political decision to maintain this life-line. It also testifies to the extreme dedication of the servicemen involved, who constantly put their lives at risk because of the uninterrupted hostilities in the proximity of the airport. UNPROFOR troops have been deliberately targeted by snipers' fire and by mortar attacks in and around the airport.

34. In view of the above situation and given the fact that the airport security should be accorded the highest priority, the coordination of the air operations from and into Sarajevo is of the utmost importance. The Commission learned that UNHCR headquarters in Geneva has a key role in keeping UNPROFOR abreast of the flight arrangements and their frequency. Owing to the limited

time-frame of the Commission's investigation, it was not possible to enter into details of the existing coordination mechanism between UNPROFOR and UNHCR concerning flight arrangements and schedules. It is, however, the opinion of the Commission that an ad hoc operational cell should exist in order to ensure proper communications and the necessary notice for the arrival of each flight. In the case of the Turkish Airlines aircraft, which landed in Sarajevo on the day of the assassination, transporting the delegation which met with the Deputy Prime Minister, notice of this delegation was not given to UNPROFOR nor was the political sensitivity of the visit of the Turkish aircraft taken into account. It also appeared that the recommendation of UNPROFOR B-H Command not to allow aircraft with Turkish and Iranian insignia to land on Sarajevo airfield was ignored. Sufficient coordination does not seem to have taken place between UNHCR and UNPROFOR in order to eliminate the possibility of errors and omissions of the kind that in fact occurred.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Directly related to the incident

35. The importance of establishing and adhering strictly to standing operating procedures prior to and during escorts is obvious. Whenever any doubt arises regarding the fulfilment of the requirements of these standing operating procedures, the Commander concerned should not ignore them without clearance from a higher level. Similarly, standard United Nations procedures of "show of force" in order to create a position of advantage to avoid recourse to "use of force" should also be implemented. In addition, it has been noted that the procedure of opening the doors of all vehicles to inspect United Nations property contravenes the spirit of the provisions contained in Article 105 (1) of the Charter of the United Nations, under which "the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". By becoming a Member of the United Nations, Bosnia and Herzegovina undertook to assume obligations such as those provided for under the above-mentioned Article of the Charter. Privileges and immunities of the Organization require inter alia that the property of the United Nations, such as UNPROFOR vehicles, are not searched.

36. In the worst situation, the device of using hatches instead of doors when entering or leaving vehicles could provide a flexible solution. The active support from higher operations centres when incidents occur is absolutely essential successfully to defuse situations and buttress the morale of the personnel on the spot.

37. In summary, standing operating procedures based on the guideline standing operating procedure should be clearly established. Training exercises should be consistently conducted to cover all aspects of operations and possible contingencies. This applies not only to units involved in this incident but also to the proper training and orientation of newly arrived national contingents. Such preliminary preparations would also ensure uniformity of procedures and reactions throughout the mission, thereby facilitating day-to-day operations.

38. In the guideline standing operating procedure, the principle of a "board of inquiry" is also laid down. Following an incident like this, it is important that the board-of-inquiry procedures are well known and strictly implemented. The confidential nature of the board of inquiry must be respected with regard to the release of information to both parties to a conflict and also to troop contributors in the wider interest of the security of United Nations personnel.

39. The complicated nature of command and control and the need to deal with a variety of agencies enjoying an autonomous status in their functioning are factors that have contributed to creating an environment that is not favourable to operational efficiency. Furthermore, the successive build-up of the mission of UNPROFOR over a short time, with new and extended mandates, and the establishment of new headquarters have also added to complexity of command and control. A further review of the command structure, within the resources that exist in UNPROFOR, is recommended. It was said that, for the Bosnia and Herzegovina Command, the administrative, legal and political capacity that would normally comprise a United Nations operation as in Bosnia and Herzegovina was initially strongly reduced because contributing nations agreed only to fund their troops, not the overhead costs. Therefore, it is recommended that timely payment of contributions be made as agreed in future meetings of the nations concerned.

B. Indirectly related to the incident

40. It has been obvious to the Commission that the incident was influenced by a high degree of suspicion about activities at the airport, both in relation to incoming flights and with regard to people crossing the airfield at night. It was also obvious that a lack of understanding of the UNPROFOR mandate contributed in no small measure to these misgivings. This highlights the need for confidence-building measures.

41. The sensitivity of the Serbs concerning activities that they conceive as hostile to their interest is likely to persist. The establishment of a United Nations zone around the airfield and stricter control of movement of personnel into and out of the airfield and more open information concerning activities there might dispel the apprehension of the Serbs that the airfield was being used as an "air bridge-head" by the other side. For these reasons the continuation of the already planned establishment of a United Nations zone around the airfield is recommended. However, it must also be understood that this will call for surveillance of the perimeter against infiltration, by deployment of some troops.

42. As stated in the report of the Secretary-General (S/24075), UNPROFOR is responsible for the functioning and the security of Sarajevo airport and the supervision of its operation. The unnotified incoming Turkish aircraft, approved by UNHCR, had not only humanitarian, but also political and, consequently, security implications. It is evaluated that this lack of coordination between UNPROFOR and UNHCR and disregard for previous

recommendations concerning the arrival of Turkish aircraft were a major factor in creating a combination of circumstances that led to the incident. The Commission therefore recommends a review of the procedures for clearance and coordination of incoming flights and a strict checking procedure at the airport.

43. As already mentioned, the Commission gained the impression that another unfavourable factor is the lack of knowledge and understanding of the mandate and activities of UNPROFOR among the authorities. In an area that has been under Communist control for some 45 years, severe restrictions continue to be placed on the free flow of information. The use of propaganda and disinformation continues to prevail throughout the area. There are apparently 51 television and radio stations in Bosnia and Herzegovina alone and people are "hooked on electronic information". By contrast, UNPROFOR does not have the means to counterbalance the one-sided nature of the propaganda offensive. The experience from other peace-keeping operations has shown the value of well coordinated programmes broadcasting even from small radio stations at the battalion level. A review of the information system is therefore recommended to tackle this problem.

C. Summary of conclusions and recommendations

1. Conclusions

44. The arrival of the Turkish airplane and the lack of communication concerning its arrival contributed to the incident.

45. The lack of adherence to established standing operating procedures resulted in insufficient information and briefing of the APC crew. This in turn led to the dispatch of a grossly understrength escort/transport element. Inadequate information also contributed to a failure to assess the gravity of the situation when the APC was stopped and reserves or reinforcements were not called up.

46. The resistance of the parties to facilitate the freedom of movement of United Nations forces has led to unacceptable check-point procedures, which impede the mobility of United Nations vehicles.

47. The act of assassination appears to have emanated from the unilateral action of a single assailant.

2. Recommendations

48. The knowledge and training of United Nations personnel with regard to standing operating procedures, based on the guideline standing operating procedure, should be increased.

49. United Nations legal procedures (military police report, board of inquiry, security of personnel, etc.) should be implemented strictly.

50. The right of UNPROFOR to enjoy freedom of movement and its implications for the performance of its tasks should be emphasized.

51. The command and control structure within the peace-keeping force and coordination with other United Nations agencies should be reviewed.

52. A United Nations zone should be established around Sarajevo airport as already planned and procedures for the control of activities in the airport should be reviewed.

53. The United Nations information structure should be improved in order to inform the local population and parties concerning UNPROFOR mandate and activities.

Appendix I

Mandate of UNPROFOR in Bosnia and Herzegovina

1. The mandate of UNPROFOR in Bosnia and Herzegovina in the context of the incident at Sarajevo is essentially based on Security Council resolutions 761 (1992) and 776 (1992), dated 29 June and 14 September 1992, respectively.

2. By resolution 761 (1992), the Security Council authorized the Secretary-General to deploy immediately additional elements of UNPROFOR to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance in accordance with his report dated 6 June 1992 (S/24075).

3. By resolution 776 (1992) of 14 September 1992, the Security Council authorized, in implementation of paragraph 2 of resolution 770 (1992), the enlargement of UNPROFOR's mandate and strength in Bosnia and Herzegovina recommended by the Secretary-General in his report dated 10 September 1992 (S/24540) to perform the functions outlined in that report, including the protection of convoys of released detainees if requested by the International Committee of the Red Cross. UNPROFOR's functions as described in the report of the Secretary-General (S/24540) and approved by Security Council resolution 776 (1992) would be to support UNHCR's efforts to deliver humanitarian relief throughout Bosnia and Herzegovina, and in particular to provide protection, at UNHCR's request, where and when UNHCR considered such protection necessary.

Appendix II

Programme of the Special Commission of Inquiry

Tuesday, 12 January 1993

Geneva

3 p.m. Courtesy cal. with Mr. Cyrus Vance and Lord David Owen, Co-Chairmen of the International Conference on the Former Yugoslavia

4 p.m. Briefing on Bosnia and Herzegovina Command by Colonel Kampman, Chief, Bosnia and Herzegovina Operations Field Headquarters, UNPROFOR in Zagreb

4.30 p.m. Briefing on prevailing situation in Sarajevo by Brigadier General Wilson, Liaison Officer, UNPROFOR, to the International Conference on the Former Yugoslavia

Wednesday, 13 January 1993

Zagreb UNPROFOR field headquarters

10.30 a.m. Introduction by Lieutenant General Satish Nambiar, Force Commander;

Briefing on UNPROFOR deployment, mandates, missions and concerns by Brigadier General Harders, Chief of Staff;

Briefing on political aspects by Mr. Cedric Thornberry, Deputy Chief of Mission and Director of Civil Affairs

Sarajevo airport

3.40 p.m. Briefing on the incident by Sector Sarajevo Commander, Brigadier General Abdul Razek

3.45 p.m. Briefing by Colonel Sartre, Commanding Officer, French Battalion 2, Sector Sarajevo, in which he commented on his written report to the military police on the incident. He was followed by Major Jackson of Operations Headquarters, Sarajevo

Kiseljak Bosnia and Herzegovina command headquarters

6 p.m. Briefing by:

Major General P. Morillon	Bosnia and Herzegovina Commander
Brigadier General Cordy-Simpson	COS
Colonel Caspers	ACOS G2
Lieutenant Colonel Cornwell	Dep ACOS G3

The background, the general situation and the main concerns of the Bosnia and Herzegovina Command were presented.

Thursday, 14 January 1993

Sarajevo airport

9 a.m. Brief meeting with General Morillon

Lukovica

10.10 a.m. Meeting with Serb representatives:

Mr. Milenko Bjelica	Ministry of Justice
Mr. Nikola Milanovic	Criminal Investigator
Mr. Radko Kapetanovic	Ministry of Internal Affairs
Mr. Injic Micenko	Army Officer of the so-called "Republika Srpska"

The Serbs gave their version of the incident. They stressed their intention to abide by the law but did not know which kind of jurisdiction, civilian or military, would apply. They stated that United Nations representatives could attend the trial of the suspect.

Sarajevo, Office of the Presidency

2.20 p.m. Meeting with President Izetbegovic on general subjects concerning the relations with UNPROFOR, its mandate and questions related to the incident.

3.25 p.m. Meeting with members of the Government and high authorities:

Mr. Lagumdzija	Deputy Prime Minister
Mr. Pujina	Minister of Internal Affairs
Mr. Alispanich	Deputy Minister of Internal Affairs
Mr. Pashich	Representative of the Minister of Foreign Affairs

The full involvement of the Bosnia and Herzegovina Government was requested as well as an immediate meeting between their experts and members of the Commission.

Friday, 15 January 1993

Sarajevo Sector headquarters - PTT building Sarajevo

10.40 a.m. The Commission questioned:

- The French Crew Chief of the armoured personnel carrier (APC) in which the Deputy Prime Minister was killed
- The soldier escorting the Deputy Prime Minister in the APC
- The APC's driver

Sarajevo, Ministry of Internal Affairs

12 noon The Commission met:

Mr. Yusuf Pujina	Minister of Internal Affairs
Mr. Petric Pero	Assistant to the Minister of Internal Affairs
Mr. Stanic Ivica	State Prosecutor
Mr. Popanic Micorad	High Court Judge
Mr. Alispahic Bahir	Head of Sarajevo Police

They requested again that the inquiries be conducted jointly by the Special Commission and their experts. They in particular requested that UNPROFOR peace-keepers involved in the incident remain in Sarajevo as long as they might need them for investigation.

3 p.m. Departure from Sarajevo

Appendix III

Summaries of briefings

A. Briefing by Colonel Kampman, Chief, Bosnia and Herzegovina operations, UNPROFOR Headquarters, Zagreb, on the Bosnia and Herzegovina Command

1. Colonel Kampman presented the mission, the organization, the chain of command and the deployment of UNPROFOR in Bosnia and Herzegovina. He raised the question of providing escort to UNHCR convoys in the eastern part of Bosnia and Herzegovina where no UNPROFOR units were deployed and consequently the Sarajevo Sector had to assist in escorting.

2. He stressed also the fact that in Bosnia and Herzegovina UNHCR was the leading agency and that the mission of UNPROFOR was to provide protection to the convoys.

B. Briefing by Brigadier General Wilson, Liaison Officer, UNPROFOR, to the International Conference on the Former Yugoslavia, on the prevailing situation in Sarajevo

3. Brigadier General Wilson pointed out the existing confrontation line between the warring factions and the situation of the Presidency in Sarajevo, which was besieged by the Bosnian Serbian Army.

4. That confusing situation rendered any negotiations between the different parties difficult.

C. Briefing by UNPROFOR staff: Lieutenant General Nambiar, Force Commander, Brigadier General Harders, Chief of Staff, and Mr. C. Thornberry, Deputy Chief of Mission and Director of Civil Affairs

5. UNPROFOR successively presented the organization of the mission and the political aspects of the situation.

6. In the first part of the briefing a historical background to UNPROFOR was presented. The Chief of Staff dealt with the different mandates carried out by UNPROFOR including the tasks in Croatia (Security Council resolutions 743 (1992) and 749 (1992)), the mandate for Sarajevo airport (resolution 758 (1992)) and that for the protection of the convoys in Bosnia and Herzegovina (resolution 776 (1992)).

7. The Deputy Chief of Mission gave a comprehensive and exhaustive description of the political implications of the UNPROFOR deployment in the mission area. He stressed how dynamic the situation was in consideration of the several extensions of the mandate. In that context, he also pointed out that the UNPROFOR strength had expanded up to the present 24,000 troops, which made it the largest United Nations peace-keeping mission ever. He then depicted the situation in Sarajevo, which had evolved dramatically since the fighting began in April 1992. Sarajevo had been, before the war, a complex, multi-ethnic community. In the course of the conflict, Serbs, in particular, had sought to divide and polarize it. When the UNPROFOR deployment had taken place, the attitude of the people had initially been of joy and exhilaration, which later became disappointment. The expectations were different from what the mandate prescribed. UNPROFOR, in fact, never had the mandate, nor the force, to rescue the people. As far as airport control was concerned, the Serbs were more comfortable with UNPROFOR being in charge of it, while the Presidency forces were more suspicious about it. The discrepancy between the realistic mandate of UNPROFOR and the higher popular expectations produced a gap in confidence which was highly exacerbated by the role of the media.

8. On the subject of the current political and military situation in Bosnia and Herzegovina, he pointed out that the Presidency forces were at present on the offensive, while the Croats had consolidated their presence and the Serbs wanted to hold on to what they had gained. Presidency forces were the most active because they wanted to regain some of the territories they had lost on the battleground. It was, therefore, the Presidency side which now tried to "destabilize the stability" and regain territory. Infantry attacks of the Presidency forces had caused the immediate response of the Serb counterpart. The massive disproportion of the Serb reaction was noticeable because of their overwhelming fire-power.

9. He concluded by analysing the role of UNPROFOR in light of the peace talks of the Geneva Conference on the Former Yugoslavia. UNPROFOR was the mediator in the midst of the civil war and was expected to provide stability. All in all, it was a complicated picture where racist forces were on the offensive and hard-liners prevailed. UNPROFOR was generally accepted as an impartial force but its men were taking heavy risks in the accomplishment of their daily missions.

D. Briefing by Brigadier General Abdul Razek, Sector Commander Sarajevo

10. Brigadier General Razek gave a briefing on the incident and focused on the sequence of events and related timing. He stressed that that particular escort request had been given at very short notice, contrary to existing procedures. Those procedures included a list of the people to be transported, which on that occasion had not been provided by the Presidency.

E. Briefing by Colonel Sartre, Commanding Officer, French Battalion 2, Sector Sarajevo

11. Colonel Sartre gave a verbal outline of his written report (see appendix IV). He stressed that, at the time he arrived at the Serbian check-point, his two major concerns were (a) to protect the people transported in the APC; and (b) to try to reduce the tension.

12. He stated that he had not been ordered to go on the spot but had gone on his own initiative because he had heard on the radio network that there were some problems at that location. After his arrival he had seen a number of vehicles stopped in line at the check-point. Those vehicles included two United Kingdom and two Ukrainian APCs, which he cleared through the check-point. He did not know that the APC at the front contained the Deputy Prime Minister.

13. The remaining APC did not belong to his battalion but to the Headquarters Company of Sector Sarajevo. He had not called for the assistance of other APCs so as not to exacerbate the tension, which was high. All the time he had been in radio contact with the Sector Sarajevo Operations Room. Simultaneously, he was negotiating with the Serb Commanders on the spot. Those Serbian officers had included one Brigade and two Battalion Commanders. While the negotiations were still under way to decrease tension, a Serb, present in the crowd, all of a sudden had shot Mr. Turajlic, who all the time had remained in the back of the APC.

F. Briefing by Major Jackson, Operations Officer, Headquarters Sector Sarajevo

14. Major Jackson stated that at the time of the incident he was just handing over his duty, and was under pressure because of the number of tasks the office had received, and because of the lack of resources with which he had to perform those tasks.

15. In the light of those circumstances and the very short notice of the request, the appropriate procedures had not been followed on that occasion. The Operations Room which provided the APC did not know that the Deputy Prime Minister was among the officials to be transported.

G. Meeting held on Thursday, 14 January 1993, with members of the Bosnia and Herzegovina Government (Presidency)

16. The Presidency officials greeted the Commission and the Deputy Prime Minister expressed confidence in the investigation carried out by the team. They stressed how, in their view, UNPROFOR was adopting a "tolerant approach toward the aggressors". According to the Presidency officials, UNPROFOR should take a different course of action from the present one.

17. The Commission explained the nature of its mission and mandate. It was pointed out that eventual corrective actions would be an integral part of the Commission's recommendations. The officials indicated their deep interest in the findings of the Commission and they were informed that the Commission's report would be transmitted to the Secretary-General at the end of the week. The officials insisted on a joint investigation of the assassination. The Minister of Internal Affairs told the Commission about the intention of bringing the case before a court of law of his country. He also rejected the idea of a trial conducted by the Serb authorities and observed that the assassination was an act of terrorism. The Commission pointed out that that position raised a serious matter of jurisdiction, which lay outside the scope of the terms of reference of the Commission. General Abdul Razek, Commanding Officer, Sector Sarajevo, emphasized that, contrary to recognized practice, the request had been made on an urgent basis and no identification of the officials concerned had been provided to UNPROFOR.

H. Meeting held on Thursday, 14 January 1993, with representatives of the "Republika Srpska" (referred to hereinafter as "the Serbs")

18. Referring to the incident, the Serbs expressed their regrets and confirmed that the killing had indeed been committed by a Serb.

19. They said that it was not yet clear whether the assassination had been committed by a civilian or a soldier. Until that point was clarified, investigations were being conducted by their civilian authorities. Those authorities were investigating the status of the murderer (civilian or military) and the circumstances under which the murder had been committed, especially whether the killing had resulted from a provocative act. The Serbs indicated that facts could not be communicated and conclusions could not be reached until they had heard both sides and seen the testimony of all witnesses. On that basis a trial could take place in accordance with Serbian laws and regulations. In answer to the Commission's question regarding those laws and the sources from which they were derived, the Serbian delegation replied that the laws were based on the Serbian Constitution inherited by the "Republika Srpska" as the legal successor of the Yugoslav Republic. In answer to the question whether the trial would be civil or military, the Serbs confirmed that, for the time being, it seemed that it would be civilian, although the status of the murderer remains to be clarified.

20. The Serbian version of the facts surrounding the incident is as follows. The arrival of a Turkish delegation in Sarajevo stirred serious suspicions arising from the apprehension of the infiltration of the "mujahidins" on the side of the Bosnian Muslims. Although arrivals of planes at the airport were usually notified to the Serbs, the arrival of the Turkish plane, as well as the escorting of the Deputy Prime Minister by UNPROFOR to the airport, had not been notified to them. The absence of such a notification heightened misgivings and suspicions. The checking of the UNPROFOR vehicle transporting the Deputy Prime Minister was, therefore, necessary to ascertain whether any

Turkish delegation was in the vehicle with him. When the vehicle was stopped, the Serbs had requested that identification cards be presented and that the rear door of the APC be opened. UNPROFOR personnel in charge of the vehicle presented their identification cards and opened the rear door to ask the Deputy Prime Minister to present his identification. However, the latter refused to show any identification (in his case, a passport) and started shouting at and insulting the Serbs. Moreover, the Deputy Prime Minister made a movement which gave the impression that he might be pulling out a pistol. That gesture had provoked preventive action on the part of a Serb and led to the killing of the Deputy Prime Minister. The Serbians said that if Mr. Turajlic had shown his identification papers to the personnel at the check-point there would not have been a problem.

21. At the request of the Commission, the Serbs said that no official Serbian Commander was present and that the check-point was a permanent one. The Commission pointed out that, according to UNPROFOR, the check-point was not a permanent one and asked why the Serbs had considered it necessary to check UNPROFOR movements at that point. In that respect, the Commission referred to the agreement which had been reached between UNPROFOR and all parties concerned under which security corridors between the airport and the city should have been established under the control of UNPROFOR. The Serbs indicated that the checking was necessary in order to prevent the infiltration of "mercenaries" in the territory. They emphasized that Bosnian officials were taking advantage of UNPROFOR's mandate by requesting that they be escorted. Under such circumstances the Serbs confirmed that checking UNPROFOR was necessary.

I. Meeting held on Thursday, 14 January 1993, with the President of Bosnia and Herzegovina

22. The Commission expressed deep regrets that the area where the incident had taken place was not yet under UNPROFOR control as had been agreed between UNPROFOR and all parties concerned, and that the request made by the Presidency to UNPROFOR to escort Bosnian officials had not been made in accordance with established procedures. The Commission recalled that, under the relevant procedure, requests to UNPROFOR should be timely and accompanied by a list identifying the Bosnian officials. That had not been done. Contrary to that procedure, the request had been made on an urgent basis and no list had been provided to UNPROFOR. The Commission specified that the absence of the required information militated against the ability of UNPROFOR to carry out its task. The Commission indicated that the cooperation extended by UNPROFOR to the Presidency required reciprocity.

23. The President commented on the incident by expressing his regrets at the murder of the Deputy Prime Minister and at the fact that UNPROFOR did not, according to him, provide immediate and additional protection while the checking by the Serbs was taking place.

24. The Commission expressed regrets on the negative approach that the local media had had with regard to UNPROFOR's mandate and the way UNPROFOR was carrying out its difficult tasks, especially after the last incident. Despite the deeply regretted incident, the Commission stated that the Presidency and UNPROFOR should keep their good cooperation established and the population of Bosnia and Herzegovina should have a good understanding of that cooperation and of UNPROFOR's mission and labour. The media should assist in a positive way in establishing that understanding.

25. It was the view of the President that the presence of UNPROFOR was highly desirable and was fulfilling a salutary function.

J. Meeting held on Friday, 15 January 1993, with members of the Bosnia and Herzegovina Government (Presidency)

26. Further to the request made by the Presidency during the meeting held on 14 January 1993 that the investigation be a joint one, the Commission began the meeting by providing further clarification of the nature and purpose of its mandate.

27. The mandate of the Commission, which had to report directly to the Secretary-General, did not admit of the concept of a joint investigation.

28. Members of the Presidency indicated that, under the local laws, witnesses of UNPROFOR should be interrogated and, in the absence of such interrogation, no conclusions could be reached on the Bosnian side. There were points on which the Bosnians would need clarifications. In that respect, they indicated that several vehicles had been behind the UNPROFOR APC in which the Deputy Prime Minister was shot, and wondered why those vehicles had left the scene shortly after the checking started.

29. The insistence of the Presidency on the conduct of a joint investigation was duly reported to Mr. M. Goulding, Under-Secretary-General for Peace-keeping Operations, in a facsimile dated 15 January 1993 (see attachment I; Mr. Goulding replied that he approved the line taken by the Special Commission).

30. Notwithstanding all the efforts made by the Commission to convince the members of the Presidency, they firmly maintained their position.

Attachment I

Facsimile dated 15 January 1993 from the Co-Chairmen of the Commission of Inquiry addressed to Mr. M. Goulding, Under-Secretary-General for Peace-keeping Operations

For your information, during the course of our discussions today with the Presidency of Bosnia and Herzegovina, the Minister of Interior was very insistent that our deliberations as a Commission of Inquiry be conducted jointly with the Presidency. The implications of this request were that they would wish to interrogate UNPROFOR witnesses with regard to the incident. We pointed out that the terms of reference of the Commission did not admit of a concept of a joint inquiry. Nor could we share with them the findings and conclusions of the Commission, which have to be submitted in a report directly to the Secretary-General. Nevertheless, they kept on insisting on the concept of a joint Commission and we reassured them that their position will be duly conveyed to the Secretary-General. However, the concept of a joint Commission continued to be the main subject of the discussion. I brought to their attention the United Nations practice in the context of board of inquiry, which involves security of United Nations personnel. Nevertheless the Minister of Interior maintained his position that the Commission should be a joint one and at this point we advised that the Presidency could convey its position directly to the Secretary-General through the Permanent Representative of Bosnia and Herzegovina, New York. The Minister of Interior stated that this was his intention. We found it necessary to bring the above to your attention the soonest.

Appendix IV

Memorandum dated 14 January 1993 from Colonel Patrice Sartre, Commanding Officer, French Battalion, concerning the assassination of Mr. Hakija Turajlic at the Serbian Nedarici check-point

1. On 8 January 1993, at 1831 hours, Mr. Hakija Turajlic, Deputy Prime Minister of Bosnia and Herzegovina, was shot by a Serbian soldier inside the UNPROFOR vehicle that was transporting him and was blocked at a Serbian check-point. The present memorandum reports the circumstances of and the reasons behind this dramatic incident.

1. Statement of the facts

2. Before the beginning of the incident, French Bat 2 did not receive any information about the travel of any Bosnian officials or Turkish delegation in its area of responsibility. Having noticed the presence of a Turkish C130 on the aeroplane parking, the French Bat 2 Commanding Officer sent his Intelligence Officer and a Military Police in order to inform him about the content and the passengers of the aircraft.

3. Around 1630 hours, the French Bat 2 Operations Room could hear through the radio net IC (HQ company net), that a headquarters Sarajevo company's APC had been blocked at the Serbian Nedarici check-point, because of its passenger who was not able to present a regular pass or United Nations identification card. This kind of incident is rather frequent in Sarajevo.

4. Listening to the net, French Bat 2 realized that headquarters was aware of the situation and already handling it. For this reason, French Bat 2 was only listening carefully to the radio net so long as it was reported (1645) that one of its APCs was blocked at the same check-point, and the Serbs were intending to arrest one Muslim member of the local staff of the battalion although he had a regular United Nations identification card. Then the French Bat 2 Commanding Officer went to the place (1710) and secured the departure of his APC and the local staff member. He secured as well the departure of two United Kingdom APCs blocked because of their Muslim passengers (UNHCR drivers) and finally the departure of two Ukrainian APCs.

5. At this moment, the Serbian Liaison Officer in the Sarajevo headquarters, sent on the spot to try to handle the case, had already left, and the French Bat 2 Commanding Officer, knowing nothing about the APC passenger's identity and about his right to be transported by the United Nations, was facing 2 "Famos" APCs and about 50 soldiers carrying RPGs, Kalachnikovs and various automatic weapons. These men informed the Commanding Officer that the passenger was Mr. Hakija Turajlic, the Deputy Prime Minister of Bosnia and Herzegovina and that he was coming back from the airport where he had met a Turkish delegation that had arrived by a UNHCR plane. Afterwards the

information turned out to be correct. They added that 60 mujahidin had disembarked from the aeroplane and entered the city; this was fanciful information.

6. The French Bat 2 Commanding Officer noticed that the APC crew was composed of only one sergeant and two soliders. He then understood how dangerous the situation was and decided to stay on the spot. He transmitted the situation to the French Bat 2 Operations Room, to be reported to headquarters, and asked for a higher-level action in order to secure the release of the headquarters company APC.

7. Simultaneously he tried to have a local negotiation. Although he personally knew all the local commanders present at the check-point (the commanders of the Ilidza Brigade, of the Nedarici and Airport Settlement Battalions) the talks quickly became very difficult. The Commanding Officer was accused of having helped in the transportation of the Turks into the city. When the Ilidza Brigade Commander stated he would take the Deputy Prime Minister by force, the Commanding Officer took his gun out, armed it, went to and stood in front of the APC rear entrance; he placed his interpreter inside a light armoured vehicle, under his driver's protection, and requested the Serbian soldiers to move backwards from the APC, targeting them. They did and formed, several metres away, a semicircle with two RPGs and five Kalachnikovs aimed at the Commanding Officer. The tension remained very high for about 20 minutes but, in this unpleasant situation, the talks went on and the Commanding Officer remained in radio liaison with the French Bat 2 Operations Room so that it could inform him about the negotiations at the higher level.

8. When the French Bat 2 Commanding Officer realized that the decision to let the Deputy Prime Minister go had been got at this level, the Ilidza Brigade Commander agreed not to take the Minister and to wait for orders. The Serbian weapons were lowered and the Commanding Officer put his gun back in its holster. But the Brigade Commander could not be brought into contact with his own commanders, because of his lack of radio means. The French Bat 2 Commanding Officer then ordered (1827) that a radio vehicle be sent to the Serbian Corps in Lukavica, in order to provide communications for the Serbian chain of command. At the same time he proposed to the Ilidza Brigade Commander to close the APC's door. At that very moment two very upset Serbian soldiers tried to pull the Commanding Officer away from the entrance. The Serbian commanders stopped them. One of them, realizing that he would not succeed, stepped back, held a gun of large calibre and shot, above the Commanding Officer's shoulder, at Mr. Hakija Turajlic, crouching in the front part of the APC. Pulled back by his comrades, he got away and again fired several bullets (1831), the commanders shouting "No, no! .Stop, stop!".

9. Obviously frightened by what had just happened, the Serbian commanders immediately opened the road in order to allow the medevac. The French Bat 2 Commanding Officer drove the man to the headquarters Military Hospital, where he was pronounced dead.

2. Reasons for the incident

10. The main reason for the incident was a botched design of the transportation of the high-level politician, without clearance, without an escort and without any information from the authorities supposed to be in charge of the preparation and the protection of such a movement. This lack of preparation directly created the crisis situation, depriving the relevant personnel of the information and the means to handle it. The airport commander had not been informed about the arrival of the Bosnian politician, nor had the French Bat 2 Commanding Officer been informed about this travel through his area of responsibility. Even the duty officer in headquarters Sarajevo was not aware of the identity of the passenger.

11. The second reason for the incident was the lack of the Serbian commanders' control over their soldiers made upset by the presence of the Turkish aeroplane at the airport. A meeting, on the airport, between the Bosnian government and any official from a Muslim country has constantly been seen by the Serbs as a violation of the 5 June agreement, and it probably is.

12. Then the last reason was the unexpected act of a hotheaded soldier realizing he would lose the passenger of the APC.

13. The murder could have been avoided if the APC's door had been closed. It had been opened before the Commanding Officer's arrival in order to allow the Serbian liaison officer to identify Mr. Turajlic and to talk with him. The Serbs did not allow it to be closed after his departure.

14. When he arrived on the spot, the French Bat 2 Commanding Officer did not know who the man inside the APC was and he began to take care of the local staff he knew: airport heating system workers and UNHCR drivers. When he was informed (by the Serbs) about the identity of the Deputy Prime Minister, he had already sent away all the other APCs and the most important thing was not to increase the tension; he did not agree to get any reinforcement proposed by the French Bat Commanding Officer because, although his main purpose was not to allow the Serbs to take Mr. Hakija Turajlic, his main concern was to avoid a battle between United Nations and Serbian forces that would have probably killed at the same time the passenger and his guards.

15. In conclusion, the French Bat 2 Commanding Officer considers that the murder was the result of an unexpected action of an uncontrolled soldier, carried out because of the bad and tense atmosphere created by the presence of the Turkish aeroplane and made possible because of such a non-professional preparation of a high-level politician's travel.

Appendix V

Summary of interviews with the crew of the APC involved in the incident

1. The Committee had decided to concentrate the questioning so as to clarify:

(a) If there had been an identifiable commander at the Serb check-point when the incident occurred;

(b) If the Deputy Prime Minister had showed his identification papers;

(c) If his reaction and conduct could be accurately described;

(d) By whom and when the back doors of the APC had been opened;

(e) If and how movement of the APC had been blocked;

(f) If other tactical options had been considered

A. Sergeant Cerea NCO in charge of the APC

2. Sergeant Cerea said that there had been no obvious check-point Commander when the APC had been stopped and the incident occurred. The French crew, in accordance with their standing operating procedure, showed their identification to the Serbian personnel at the check-point but the passenger, the Deputy Prime Minister, had refused to show any form of identification. Nor was the Sergeant aware of his identity as he had received no list of officials prior to departure. When the APC stopped, Sergeant Cerea had dismounted and opened the rear door to permit identification of the personnel inside. The Sergeant had instructed the soldier inside the APC to close and lock the doors immediately after he had shown his identification card. That had been done. Sergeant Cerea, being outside the APC at that stage, had not been in a position to comment on Mr. Turajlic's reaction inside the APC. The doors remained locked until the arrival of the Serbian Liaison Officer, who was dispatched from the Sector Sarajevo headquarters (PTT building) following a radio report from Sergeant Cerea to Operations PTT building. On his arrival, the Serbian Liaison Officer was allowed access to the APC and the doors were relocked behind him. He stayed inside the APC for approximately five minutes. When the soldier inside had opened the door to allow the Liaison Officer out of the APC, the large crowd which had congregated prevented the doors from being reclosed and the crowd immediately surrounded the Liaison Officer. Sergeant Cerea related that the Liaison Officer had a discussion primarily with four men, one of whom, he said, was very agitated. Sergeant Cerea also confirmed that, under the threat of anti-tank weapons, the contents of some packages belonging to Mr. Turajlic which were in the back of the APC had been searched. They were found to contain some cigarettes.

3. It was at that stage that Colonel Sartre, Commanding Officer French Battalion 2, arrived at the rear of the APC with Sergeant Cerea. Mr. Turajlic and the soldier were in the rear.

4. Sergeant Cerea said the crowd was not aware of Mr. Turajlic's identity and he heard the word "Turkish" emanating repeatedly from the crowd. He himself could not confirm whether the passenger (Mr. Turajlic) carried any identification papers; nor was he aware of the passenger's identity until his return to base after the incident.

5. When asked if it would have been possible to withdraw from the scene of the incident at any stage, Sergeant Cerea said that initially his APC had been blocked from the rear by six or seven United Nations vehicles, including two United Kingdom and two Ukrainian APCs. When those vehicles were permitted to pass through the check-point, Sergeant Cerea found that his APC had been blocked from the rear by a Serbian APC.

B. Private (First Class) Greener - soldier in rear of APC

6. Private Greener was the soldier positioned inside the APC. As such he was not aware if there was a check-point Commander. He was not aware of the identity of the person they were transporting. He said that the passenger became very agitated as soon as he realized that they might be stopped at the check-point. After the APC was stopped the Sergeant in charge (Sergeant Cerea) came to the back door and asked Private Greener to open the door to show his identification card to the Serbian soldiers. He did so and he told the Sergeant that the passenger refused to show his identification. Private Greener then closed the doors and all windows and hatches. He emphasized that the passenger was by then extremely distressed and was eventually moved to tears.

7. When the Serbian Liaison Officer arrived he was admitted into the APC and Private Greener relocked the doors. The Liaison Officer remained in the APC for about five minutes and as the conversation with the passenger was in "Yugoslavian", the soldier did not know what was said. He saw that the passenger presented his passport to the Liaison Officer. Private Greener said that, when the Liaison Officer wanted to depart, he reopened the door. Suddenly both rear doors were pulled open by the crowd. He immediately brought his weapon to the shoulder and warned the crowd to back off. They insisted on examining the boxes inside the APC. Initially, Private Greener refused to allow them to do so but they were subsequently searched and some cigarettes were found.

8. About 15 minutes thereafter the French Battalion Commander (Colonel Sartre) arrived on the scene. Private Greener related that the people outside the vehicle were very agitated. The situation was very grave and he could not observe any blue helmets in the vicinity. He felt isolated and in danger of being killed. The United Nations vehicles which had earlier been present had driven away and there seemed to be no reinforcements

arriving. He said that the identity of the passenger was not known to him until he returned to base. He also said that, despite the passenger's agitation, he did not make any movements or say anything to insult anyone.

C. Private (First Class) Delberg - driver of APC

9. Private Delberg related that, owing to his position in the front of the APC and separate from the passenger compartment, he was only partly aware of the activities in the back. He said that the check-point was well manned, with approximately 30 persons, from the beginning and that he was blocked and could not drive away or pull out.

Appendix VI

UNPROFOR Military Police report dated 14 January 1993 on the murder of Mr. Hakija Turajlic

1. On 8 January 1993, our office was informed by the medical team that a man was in the hospital. He was killed by bullets. It was 1930 hours when we were informed.

2. An investigation commenced immediately by the undersigned.

3. The Military Police Platoon Commander was informed immediately.

4. The following appear to be the facts:

(a) On 8 January 1993, three French soldiers had to escort six persons from the Presidency to the airport;

(b) After arriving at the airport, they had to wait for the landing of a Turkish aircraft at 1510 hours;

(c) Five persons went on board the plane and one man stayed: Mr. Hakija Turajlic;

(d) This man put a lot of packets in the APC and asked the Commander to go to the PTT building because a car was waiting for him;

(e) After 300 metres the APC was stopped by a soft-skinned armoured vehicle from the Serbian side army. There were approximately 15 Serbian soldiers and they asked to check the identity of the passengers;

(f) The civilian passenger refused to give his passport;

(g) At 1645 hours, Colonel Sartre was informed that one of his APCs was also blocked on the road;

(h) At 1710 hours Colonel Sartre succeeded to evacuate the United Kingdom and Ukrainian vehicles and also one of his APCs was blocked by the Serbian soldiers;

(i) The intervention of Colonel Sartre was first of all to quiet down the Serbian soldiers who now numbered about 50;

(j) At 1700 hours, the Serbian Liaison Officer went to the check-point. After a brief discussion with the Deputy Prime Minister, the Liaison Officer came back to PTT, to take the admission paper for the passenger;

(k) It was when he arrived on the spot and after the departure of the other vehicles that Colonel Sartre was informed about the passenger's identity;

(l) After the Serbians' threat, he took his gun and went in front of the back APC;

(m) After many words, the Serbians moved back and the tension grew higher;

(n) The permission for the Deputy Prime Minister to go on was given. On the other hand, the Serbian soldiers could not have any liaison with their headquarters;

(o) At 1830 hours two Serbians from militia tried to push Colonel Sartre. Another Serbian officer tried to keep them away but one of them took his gun and shot several times on the Deputy Prime Minister;

(p) In spite of the intervention of the Serbian officer, the man shot again on the passenger;

(q) The Serbian forces were shocked by this act and allowed the APC to go to the hospital. First aid was administered by First Class Greener;

(r) When they arrived in the hospital, the Deputy died;

(s) In the hospital pictures were taken. The local police and forensic pathologist arrived at 2230 hours and Dr. Ililas examined the corpse;

(t) Three bullets were discovered and seized by the local police;

(u) With the local police we examined the APC and seized two bullets in the door of the engine;

(v) We checked the clothes and the wallet with the local police and there was no identification card or passport in the wallet of the Deputy;

(w) On 8 January 1993, Captain Lordon and Sergeant Lacaille and the undersigned went to the press conference with General Morillon and Colonel Sartre. The Colonel was interrogated after by the Military Police. At two o'clock in the afternoon, Sergeant Cerea and First Class Greener were also interrogated by Military Police.

Establishment and measurements

5. On 9 January the local police, represented by Mr. Petar Petric, Director of Criminal Investigation, gave us a lot of pictures of Serbian people to present those to the French soldiers. The photographs given by the local police were shown to the APC crew, but without any results. The photos from the local police were also shown to Colonel Sartre in an attempt to identify the shooter but without any results.

6. On 10 January 1993, the Military Police Commander gave the copy of Colonel Sartre's statement to the local police. The packets which were in the

APC were checked. In two different boxes local police seized two cartridge cases. The calibre is 9 mm and on the base of the cartridge case there is writing in the Cyrillic alphabet.

7. On 11 January 1993, the Military Police Commander gave copies of the statements of the three French soldiers, but without identity.

8. With Sergeant Lacaille, I went to the spot to take pictures of the scene and to try to find with a metal detector some cartridge cases which could confirm the fact that the two cartridges that were seized by the police are the same as those near the APC's location. On the road 8 cartridges and 1 cartridge case were found. Two Serbian military policemen were on the spot when we arrived.

9. Statements were obtained from:

Colonel Sartre
Sergeant Cerea
First Class Greener
First Class Delberg

10. There are some details which are not clear for now:

(a) At what time the APC's door was opened;

(b) Nobody can explain how the passport was in the hands of the Serbian soldier;

(c) It could be useful for us to have the statement of the Serbian Liaison Officer who was on the spot.

11. This concludes my report.

(Signed) S. Sergeant SERRIER
Military Police Platoon Leader
Sarajevo

UNITED NATIONS

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Agenda item 143
THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Forty-eighth year

Letter dated 20 January 1993 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General

We are in receipt of your letter to the President of the Security Council of 18 January 1993, which we received late on 19 January 1993. We were surprised by the letter, as the Presidential Statement of 8 January 1993 explicitly requests a report and not a letter with excerpted conclusions. Therefore, we must seriously evaluate the basis for a letter releasing conclusions of the investigation without the supporting evidence. We find this to be unusual at the very least.

We must add that, while your letter includes some detail on the difficulties encountered by the United Nations Protection Force (UNPROFOR) in escorting members of the Presidency of the Government of Bosnia and Herzegovina, its conclusion on the assassination itself is entirely unsupported. We hope that publication of the full report will shed light on the situation in a clear manner, to which we can respond appropriately.

The leadership of Serbian occupation forces was informed of the presence of Mr. Turajlic in the armoured personnel carrier during the two hours before the assassination, and had ample opportunity to communicate its instructions to forces at the scene. The Serbian leadership was certainly in a position to order that Mr. Turajlic not be harmed, had that in fact been their intention. On the contrary, Serbian forces insisted on opening the door of the armoured personnel carrier and, once it was opened, made use of the opportunity to kill the Deputy Prime Minister.

It strains credibility to accept that this entire sequence of events, involving several levels of Serbian ledership, was the act of one soldier

acting alone. At the very least, the Serbian leadership is guilty of criminal complicity in the killing.

We look forward to the publication of the full report of the Special Commission of Inquiry, and hope that this report will shed more light on the behaviour of Serbian occupation forces. We will at such time give a response to the conclusions presented therein.

May I ask your kind assistance in circulating the present letter as a document of the General Assembly, under agenda item 143, and of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador and Permanent Representative

UNITED
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Security Council

Distr.
GENERAL

S/25132
20 January 1993
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 19 JANUARY 1993 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to inform you that during the period 24 December 1992 to 10 January 1993 the Iranian side persisted in its violations of the provisions of the cease-fire between the two countries.

1. At 1435 hours on 24 December 1992 a group of individuals from the Iranian side proceeded to build concealed positions and to install white markers in the hills at coordinates 514501 opposite the Fakkah guard post inside the area of separation.

2. At 1330 hours on 29 December 1992, an Iranian excavator was observed inside the area of separation, opposite the Shihabi guard post, building an earth rampart opposite the Iranian post at coordinates 345446 and maintaining the road leading to the post.

3. At 1230 hours on 30 December 1992, six Iranian soldiers were observed opposite the Fakkah guard post inside the area of separation at coordinates 514501 raising an Iranian flag.

4. At 1200 hours on 31 December 1992, the Iranian side pitched two tents inside the area of separation to the south of Chay Hammam at coordinates 515764.

5. At 1100 hours on 1 January 1993, two Iranian fishing launches approached a burnt-out ship in the Shatt al-Arab in the Iraqi Shahiniyah area, one carrying eight armed men with a metal cutter and the other carrying towing equipment. They tried to make openings in the ship in an attempt to tow it, and then closed the existing openings. There were also military units opposite the ship for the purpose of protecting those working on it. It is possible that they closed the openings in the ship in order to refloat it and tow it to the Iranian side.

6. At 1500 hours on 2 January 1993, the Iranian side manned an old, abandoned, post opposite the Hizam hills at coordinates 658267 inside the area of separation.

7. At 1600 hours on 6 January 1993, the Iranian side stationed two caravans 400 metres from the international boundary near the Khan al-Layl guard post at coordinates 545924 and transferred the men from the post to them.

8. At 1700 hours on 8 January 1993, six Iranian soldiers were observed building a hut of corrugated iron at coordinates 512512 opposite the Fakkah guard post inside the area of separation.

9. At 0730 hours on 10 January 1993, an Iranian launch approached in the direction of the Iranian ship lying aground near the Iraqi shore in the Shahiniyah area. It left at 0745 hours.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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21 January 1993

ORIGINAL: ENGLISH

LETTER DATED 20 JANUARY 1993 FROM THE PERMANENT REPRESENTATIVE OF SINGAPORE TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On behalf of the Permanent Representatives to the United Nations of the States members of the Association of South-East Asian Nations (ASEAN), I have the honour to transmit to you herewith the text of a statement by the ASEAN Foreign Ministers on the holding of a presidential election in Cambodia issued on 15 January 1993.

I would be grateful if you could arrange to have the present statement circulated as a document of the Security Council.

(Signed) CHEW Tai Soo

Annex

Statement by the ASEAN Foreign Ministers on the holding of a presidential election in Cambodia

1. We, the Foreign Ministers of the Association of South-East Asian Nations (ASEAN), view with deep concern the current impasse in the Cambodian peace process.

2. We are particularly concerned over the intensified military activities in violation of the cease-fire arrangements and the increasing incidents of political harassment, intimidation and even assassinations perpetrated against personalities and political workers of especially the Front uni national pour un Cambodge indépendent, neutre, pratique et coopératif (FUNCINPEC) and the Khmer People's National Liberation Front (KPNLF), which could eventually lead to renewed large-scale fighting in Cambodia. We are also gravely concerned over the recent spate of killings of residents of Vietnamese origin. We call on all Cambodian parties to cooperate with the United Nations Transitional Authority in Cambodia (UNTAC) and to contribute to ensuring a peaceful and neutral political environment so that there can be free and fair elections as stipulated in the Paris Peace Agreements.

3. We welcome and fully support His Royal Highness Prince Samdech Norodom Sihanouk's announcement of 8 January 1993 that he is ready to be a candidate in a presidential election to be held in April or May 1993. We believe that His Royal Highness Prince Samdech Norodom Sihanouk will be able to play a pivotal role in bringing about national reconciliation among all Cambodians, which is essential if genuine and lasting peace in Cambodia is to be attained.

4. We are of the view that Cambodia needs political stability prior to and after the general elections of the members of the Constituent Assembly scheduled to be held in May 1993. An elected President would facilitate the conduct of the general elections and would also provide an anchor of stability in the period after the general elections. He would effectively serve as the unifying force of the country pending the completion of the drafting of the new Cambodian Constitution and the establishment of a new Cambodian Government. We believe that such a presidential election would help to reinforce the overall peace process and overcome the present impasse in the implementation of the Paris Peace Agreements. We therefore strongly urge all the Cambodian parties to agree to the holding of a presidential election.

5. We call on all the Cambodian parties to cooperate in the spirit of national reconciliation and to exercise self-restraint in order to prevent the situation from deteriorating any further. We also call on all the Cambodian parties to comply with their obligations under the Paris Peace Agreements. They should ensure the safety of UNTAC personnel who are performing their duties. In particular, we call on the Party of Democratic Kampuchea (Khmer Rouge) to comply fully with all its obligations under the Paris Peace Agreements.

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21 January 1993
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GENERAL ASSEMBLY
Forty-seventh session
Agenda item 36
THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

SECURITY COUNCIL
Forty-eighth year

Letter dated 19 January 1993 from the Permanent Representative of Guatemala to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith a copy of the document entitled "Proposal for the immediate signing of the agreement on a firm and lasting peace in Guatemala" (see annex), the original of which was personally delivered to you today by the President of the Republic of Guatemala, Mr. Jorge Antonio Serrano Elías.

In that document, the Government of Guatemala proposes to the Unidad Revolucionaria Nacional Guatemalteca (URNG), on the basis of the understandings reached, that the Total Agreement on a Firm and Lasting Peace Ending the Internal Armed Conflict should be signed within a period not exceeding 90 days from the signing of the Human Rights Agreement, which the Government is prepared to sign immediately, including provisions on immediate verification. The Government further proposes that, in the unlikely event that the said Agreement cannot be signed, a definitive cease-fire should be declared upon the expiry of the afore-mentioned 90-day period.

I should be grateful if you would have this note and its annex circulated as an official document of the General Assembly, under agenda item 36, and of the Security Council.

(Signed) Julio Armando MARTINI HERRERA
Ambassador
Permanent Representative

ANNEX

Proposal for the immediate signing of the agreement on a firm and lasting peace in Guatemala (19 January 1993)

Peace is not just the absence of war, but the creation of a set of conditions which will allow man to live without fear or anxiety

Jorge Serrano Elías

I. BACKGROUND

In August 1987, when the Esquipulas II agreements were signed, the people of Guatemala began to hope for an end to the internal armed conflict, which had begun more than 33 years before.

After the signing of the Oslo Agreement on 30 March 1990, all the various groups in the country, without exception, held talks with the Unidad Revolucionaria Nacional Guatemalteca (URNG) and, on 24 April 1991, talks began between the Government and URNG with a view to reaching agreements that could put an end to the conflict.

The young Guatemalan democracy faced, with dignity and diligence, its responsibility for achieving peace by political and civilized means, while striving to put aside the traditional postures of polarization and confrontation. That effort was embodied in the Esquipulas, Oslo, El Escorial, Querétaro and Mexico City Agreements, as was made clear at the many meetings in Ottawa, Quito, Metepec, Atlixco, Cuernavaca, Querétaro and Mexico City, in which Guatemala participated in a conciliatory spirit.

II. BASIC CONSIDERATIONS

The Government of Guatemala, with the support of broad segments of society and a cross-section of the country's leaders, is putting forward a proposal which could bring about the end of the internal armed conflict.

The Government is making this final proposal because URNG has stated publicly that: (a) its greatest interest is the "immediate verification" of the human rights agreements, on which basic understandings already exist; and (b) the Government's acceptance would expedite the discussion of the remainder of the agenda, on the basis of the "comprehensive documents" submitted by both parties.

The Government hopes that URNG will accept this proposal. Otherwise, it would be clear that the insurgency regards the negotiations as a "fighting strategy" and, accordingly, is not genuinely interested in their outcome.

The Government recognizes that, as experts have stated, the internal armed conflict is the major source of human rights violations in Guatemala, and that verification is extremely difficult so long as that confrontation persists.

III. PROPOSAL

The Government, aware of the progress achieved in Guatemala in the area of human rights and wishing to give further proof of its commitment and determination, decides to agree to the immediate verification of the human rights agreements. However, in order to prevent this action being used by URNG as a means for its international political struggle and to enable the Government's flexibility to be of real assistance in bringing the internal armed conflict to a definitive end, proposes:

(1) That, based on the understandings that have been reached and of which the Conciliator, Monsignor Rodolfo Quezada Toruño, and the Observer, Mr. Jean Arnault, Representative of the Secretary-General of the United Nations, are fully aware, the human rights agreement, including provisions on immediate verification, should be signed immediately;

(2) That, as soon as the Government of Guatemala guarantees the fulfilment of this proposal, URNG should undertake to expedite the negotiations by taking part in a permanent meeting within the framework of the Oslo, Mexico City and Querétaro agreements, so that, within a period of no more than 90 days after the signing of the human rights agreement, the total agreement on a firm and lasting peace, which would end the internal armed conflict, can be signed;

(3) In the unlikely event that a definitive agreement cannot be reached within 90 days, and in order to provide guarantees to the people of Guatemala and the international community, the Government and URNG should pledge immediately:

3.1 To declare a definitive cease-fire upon the expiry of the aforementioned 90-day period;

3.2 In order to make the foregoing possible, the Government shall determine the places where, under United Nations supervision, URNG should temporarily concentrate all its armed contingents until the negotiations are completed, a definitive peace agreement is reached and the final procedures are established for the demobilization and disarmament of URNG and its integration into the legal and institutional life of Guatemala;

3.3 In order to carry out the operation referred to in the preceding paragraph, the Secretary-General of the United Nations would be requested to propose the appropriate procedures;

(4) This proposal for reconciliation is in keeping with the desire and profound aspiration of the people of Guatemala to live in peace and thus achieve full economic and social development that would ensure the well-being of all Guatemalans; the Government of Guatemala requests the United Nations and the countries interested in finding a solution to this conflict to lend their solidarity and support for the achievement of that goal.

This proposal, which has received the broadest possible support from the people of Guatemala, is submitted with optimism and faith in God, and in the conviction that peace is not limited to a cease-fire alone and that it is the Government's responsibility, with the support of the international community, to reunify and reconcile the Guatemalan family.

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S/25135
19 January 1993

ORIGINAL: ENGLISH

LETTER DATED 21 DECEMBER 1992 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith, for the attention of the Security Council, the following information on the eighth session of the Governing Council, held from 14 to 18 December 1992.

At its 31st plenary meeting held on 18 December, the Governing Council adopted the following decisions:

(a) Decision No. 14 on the establishment of the United Nations Compensation Commission Committee on Administrative Matters (S/AC.26/1992/14);

(b) Decision No. 15 on compensation for business losses resulting from Iraq's unlawful invasion and occupation of Kuwait where the trade embargo and related measures were also a cause (S/AC.26/1992/15);

(c) Decision No. 16 on awards of interest (S/AC.26/1992/16).

The texts of the decisions are enclosed herewith.

With respect to item 9 of the agenda (Priority of payment of claims), the Council agreed on the text of a declaration that was read out by the President at the 31st plenary meeting of the Council. The text of the declaration is also attached.

Representatives of Kuwait and Iraq were authorized to address the Council at its 30th plenary meeting, held on 14 December 1992 in accordance with paragraph 5 of the Guidelines for the Conduct of the Work of the Governing Council.

The Executive Secretary informed the Governing Council, inter alia, of the receipt by the secretariat, as of 14 December 1992, of more than 380,000 claims in categories A, B and C, submitted through Governments.

The next session of the Governing Council will take place from 29 March to 2 April 1993.

(Signed) Alex REYN
President
Governing Council
United Nations Compensation Commission

Annex I

DECISION NO. 14

Adopted by the Governing Council of the United Nations Compensation Commission during its eighth session, at its 31st plenary meeting, held from 14 to 18 November 1992*

Establishment of the United Nations Compensation Commission Committee on Administrative Matters

The Governing Council decides to establish a Governing Council Committee called "the United Nations Compensation Commission Committee on Administrative Matters" (CAM). CAM will be composed of Geneva representatives (or their designees) of interested States members of the Governing Council. The President of the Governing Council or his designee will be Chairman of CAM. CAM will meet informally whenever deemed appropriate by the Chairman or by the Executive Secretary. CAM will review and provide guidance on major administrative and budgetary matters presented to it by the Executive Secretary, including the annual administrative budget. The Governing Council retains authority to make all decisions concerning the payment of claims.

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* Previsouly issued under the symbol S/AC.26/1992/14.

Annex II

DECISION NO. 15

Adopted by the Governing Council of the United Nations Compensation Commission during its eighth session, at its 31st plenary meeting, held from 14 to 18 November 1992*

Compensation for business losses resulting from Iraq's unlawful invasion and occupation of Kuwait where the trade embargo and related measures were also a cause

1. Paragraph 16 of Security Council resolution 687 (1991) reaffirms "that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait".

2. In paragraph 6 of its decision No. 9 on propositions and conclusions on compensation for business losses, hereinafter referred to as decision No. 9, the Governing Counsel set out guidelines for awarding compensation for business losses caused by Iraq's unlawful invasion and occupation of Kuwait where the trade embargo and related measures were also a cause, and undertook to provide further guidance on the matter.

3. The two essential elements of admissible losses are (a) that such losses must be the result of Iraq's unlawful invasion and occupation of Kuwait and (b) that the causal link must be direct. Although the United Nations trade embargo was imposed in response to Iraq's invasion and occupation of Kuwait, losses suffered solely as a result of that embargo are not considered eligible for compensation because the causal link between the invasion and the loss is not sufficiently direct.

4. The terms of contracts, and transactions that have been part of a business practice or course of dealing, as well as the relevant circumstances will need to be examined by Commissioners to determine whether related claims fall within the scope of the Compensation Commission.

5. In all cases, Commissioners will require evidence that claims fall within the criteria of direct loss as set out in paragraph 16 of resolution 687 (1991) in order for them to be eligible for compensation by the

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* Previously issued under the symbol S/AC.26/1992/15.

Compensation Fund. It will not be enough for claimants to argue that losses were due to the chaotic economic situation following Iraq's unlawful invasion and occupation of Kuwait. There will be a need for detailed factual descriptions of the circumstances of the claimed loss, damage or injury.

6. In its decisions Nos. 1 and 7, the Governing Council decided that compensation payments are available with respect to any direct loss suffered as a result of:

(a) Military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991;

(b) Departure from or inability to leave Iraq or Kuwait (or a decision not to return) during that period;

(c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;

(d) The breakdown of civil order in Kuwait or Iraq during that period; or

(e) Hostage-taking or other illegal detention.

These guidelines are not intended to be exhaustive. There will be other situations where evidence can be produced showing that claims are for direct loss, damage or injury as a result of Iraq's unlawful invasion and occupation of Kuwait.

7. Commissioners will wish to apply relevant valuation methods to different categories of loss. Paragraph 15 of decision No. 9 shows various valuation methods for tangible assets depending on the type of asset and the circumstances of the case. Paragraph 18 of decision No. 9 shows various valuation methods for losses relating to income-producing properties. When compensation for losses of future earnings and profits is assessed, documentary evidence such as a contract should be presented wherever possible, and where no contract existed, other evidence should be submitted to enable losses of future earnings to be calculated with reasonable certainty. Such evidence should wherever possible be broadly equivalent to contracts that were in existence, or prove that such contracts or projections of future trading patterns existed. Paragraph 17 of decision No. 9 states that, in the case of a business which has been, or could have been, rebuilt and resumed, compensation would be awarded for the loss from cessation of trading to the time when trading was, or could have been, resumed. In the case of a business or course of trading which it was not possible to resume, the Commissioners would need to calculate a time-limit for compensation for future earnings and profits, taking into account the claimant's duty to mitigate the loss wherever possible.

8. This paper does not address the issues arising from claimants' attempts to avail themselves of particular sources of recovery, such as to claim against the other party to a contract.

Commentary on paragraph 6 of decision No. 9

9. The first four sentences of paragraph 6 of decision No. 9 are now considered in turn. The object is to provide further guidance for Commissioners when they assess claims in respect of business losses of individuals, corporations and other entities. The guidance is also intended to help claimants in presenting their claims. It will be for Commissioners to draw on the principles in this guidance when making their judgements on actual cases which will stand or fall according to their specific factual and legal situations.

> "The trade embargo and related measures, and the economic situation caused thereby, will not be accepted as the basis for compensation."

(a) The practical effect of this statement is that any loss, damage, or injury resulting solely from the trade embargo and related measures, and the economic situation caused thereby, is not eligible for compensation. The trade embargo and related measures are the prohibitions in Security Council resolultion 661 (1990) and relevant subsequent resolutions and the measures taken by States in anticipation thereof and pursuant thereto, such as the freezing of assets by Governments. The trade embargo against Kuwait was applied from 6 August 1990 to 3 April 1991 during Iraq's occupation of Kuwait. The trade embargo against Iraq was also applied from 6 August 1990 and is still in force;

(b) "The economic situation caused thereby" is a broader concept. The trade embargo and related measures had wider economic effects, both on international trade and on economic activity within Kuwait and Iraq. For example, the world price of oil was temporarily higher than it otherwise would have been and, in addition, countries which previously imported oil from Iraq and Kuwait had to find other sources of supply, with effects on transport and transit services and on refinery operating costs. Companies which might have expected to export goods or services to Kuwait or Iraq will have had to look for alternative markets, with potentially depressing effects both on their profits and those of their suppliers.

> "Compensation will be provided to the extent that Iraq's unlawful invasion and occupation of Kuwait constituted a cause of direct loss, damage or injury which is separate and distinct from the trade embargo and related measures."

(a) The practical effect of this statement is that compensation will be provided, if and to the extent that loss, damage or injury resulting directly from Iraq's unlawful invasion and occupation of Kuwait was actually suffered and would have been suffered irrespective of whether the trade embargo and related measures had been in force;

(b) Particularly in the case of larger and more complex claims, the Commissioners may decide that some losses listed in a claim are a direct result of Iraq's unlawful invasion and occupation of Kuwait and should be

compensated and that other losses listed in the same claim resulted solely from the embargo and related measures and are therefore ineligible for compensation. In this situation partial compensation would in principle be payable.

> "Where the full extent of the loss, damage or injury arose as a direct result of Iraq's unlawful invasion and occupation of Kuwait, it should be compensated notwithstanding the fact that it may also be attributable to the trade embargo and related measures."

(a) This is intended to show that the full extent of a loss, damage, or injury may be attributed both to Iraq's unlawful invasion and occupation of Kuwait and to the trade embargo and related measures; they are parallel causes;

(b) Some cases of parallel cause loss may prove difficult to assess. There would be instances at the time of the invasion and embargo when ships diverted because it was unsafe to enter Kuwaiti or Iraqi ports. The Commissioners will need to examine closely the alleged cause of all losses after 6 August 1990 in order to determine the extent to which the loss arose as a direct result of the Iraqi invasion and occupation of Kuwait, and is therefore compensable, even though it could also be considered to have resulted from the embargo and related measures. If the Commissioners decide that a loss had such a parallel cause, full compensation would in principle be awarded.

> "The total amount of compensable losses will be reduced to the extent that those losses could reasonably have been avoided."

(a) The duty to mitigate applies to all claims and not simply to those under discussion in paragraph 6 of decision No. 9. The subject of mitigation is referred to in paragraphs 10, 17 and 19 of decision No. 9.

10. The guidance contained in the present decision applies to all types of business losses, including losses relating to contracts, transactions that have been part of a business practice or course of dealing, tangible assets and income-producing properties.

Annex III

DECISION NO. 16

Adopted by the Governing Council of the United Nations Compensation Commission during its eighth session, at its 31st plenary meeting, held from 14 to 18 November 1992*

Awards of interest

The Governing Council decides that:

1. Interest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award.

2. The methods of calculation and of payment of interest will be considered by the Governing Council at the appropriate time.

3. Interest will be paid after the principal amount of awards.

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* Previously issued under the symbol S/AC.26/1991/16.

Annex IV

Declaration by the President of the Governing Council at the 31st plenary meeting

Working Group A had a useful and informative discussion of agenda item 9, Priority of payment of claims. The Group reaffirmed the principle that the clear-cut priority accorded to claimants in categories A, B and C by the Commission in decision No. 1 should be applied in every stage of processing, including the payment stage.

Working Group A confirmed its intention to develop a rational and effective system for the payment of claims as a matter of high priority and, in any case, before the Compensation Fund receives amounts sufficient to begin to pay claims.

In order to gain the necessary information for such a system, several questions were asked to States and to the secretariat.

Working Group A requests that the secretariat be asked to collect and provide this information, in so far as it may be available, and to make it available to the Governing Council at its ninth session.

UNITED NATIONS

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21 January 1993

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GENERAL ASSEMBLY
Forty-seventh session
Agenda item 30
QUESTION OF PALESTINE

SECURITY COUNCIL
Forty-eighth year

Letter dated 21 January 1993 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People to the Secretary-General

I have the honour, in my capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, to enclose herewith the text of a statement adopted by the Committee on 21 January 1993 on the deportation of Palestinian civilians from the occupied Palestinian territory, including Jerusalem, by the Israeli authorities (see annex).

I should be grateful, if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 30, and of the Security Council.

(Signed) Kéba Birane CISSE
Chairman
Committee on the Exercise
of the Inalienable Rights
of the Palestinian People

ANNEX

Statement by the Committee on the Exercise of the Inalienable Rights of the Palestinian People at its 194th meeting held on 21 January 1993

The Committee on the Exercise of the Inalienable Rights of the Palestinian People strongly condemns the mass deportation of over 400 Palestinians from the occupied Palestinian territory by Israel, the occupying Power, on 17 December 1992. This action constitutes a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and is in violation of numerous Security Council resolutions which demand that Israel refrain from deporting any Palestinian civilian from the occupied territories and ensure the safe and immediate return of all those deported. It is also in flagrant violation of the sovereignty and territorial integrity of Lebanon and is contrary to the Charter of the United Nations and the principles of international law.

The Committee joins the international community in warning that these violations and the policy of collective punishments and continued repression in the occupied Palestinian territory being pursued by Israel pose grave dangers for security and stability in the region and for the ongoing peace process.

The Committee appreciates and supports the continuing efforts of the Secretary-General and his personal representatives to resolve this matter in accordance with Security Council resolution 799 (1992) of 18 December 1992, and notes in particular the Secretary-General's position, contained in his letter of 3 January 1993, concerning possible further steps to be taken by the Security Council. The Committee condemns Israel's persistent refusal to comply with that resolution, which demanded that Israel, the occupying Power, ensure the safe and immediate return to the occupied territories of all those deported.

The Committee notes with extreme concern that the deportees are still enduring extremely harsh conditions, exposed to winter weather and without adequate food, water and medical care. They also face the threat of possible violent actions including artillery shelling, from Israeli or Israeli-controlled forces. The Committee underlines that the Israeli Government bears exclusive and direct responsibility for this unlawful and repressive action and the resulting inhuman situation, and that it is incumbent upon the international community to do everything in its power to bring it to an end, to ensure compliance with Security Council resolution 799 (1992) and to prevent any similar illegal action by the Israeli Government in the future.

The Committee calls in particular upon the Security Council to take all necessary measures, including the application of Chapter VII of the United Nations Charter, to bring about the implementation of its resolution. The

Committee believes that this would help to ensure the continuation of the peace process, preserve the prestige and credibility of the Security Council, and guarantee respect for international law and agreements by all, without exception.

Noting with grave concern the continuing human rights violations by Israel, the occupying Power, in the occupied Palestinian territory, particularly the increased casualties, blanket curfews and mass arrests in recent weeks, the Committee once again urgently appeals to the Security Council to take the necessary measures to provide appropriate protection to the Palestinian people in the occupied Palestinian territory, including Jerusalem, in accordance with the provisions of the Fourth Geneva Convention and numerous Security Council resolutions, particularly resolution 681 (1990), until a permanent, durable and just solution is found to the question of Palestine based on relevant United Nations resolutions.

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Security Council

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S/25137
22 January 1993
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 21 JANUARY 1993 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to inform you of violations of the provisions of the cease-fire committed during the period 31 December 1992-15 January 1993 by the regime imposed on Kuwait. The situation with respect to such violations is set forth below.

1. At 2400 hours on 31 December 1992, the Kuwaiti side fired a number of random bursts from medium machine-guns in the direction of the Umm Qasr post at coordinates 771260.

2. At 0955 hours on 1 January 1993, a Kuwaiti patrol intercepted three non-commissioned officers from the Iraqi Talhah post at coordinates 455310 while they were gathering firewood close by. The Kuwaiti patrol opened fire on them and took them prisoner. Their names are as follows:

(a) Warrant Officer Hasan Khalaf Yasin;

(b) Corporal Jasim Dari Muhsin;

(c) Corporal Ali Hasan Hamad.

3. At 0800 hours on 6 January 1993, the Kuwaiti side reinforced its Azamiyah post, located at coordinates 713275 opposite the Iraqi Abu Musa post at coordinates 737274, with 20 men. At 2300 hours on the same day, the occupants of the above Kuwaiti post fired a number of stray shots from medium weapons at the Iraqi post.

4. At 1000 on 9 January 1993, a helicopter was observed inside Kuwaiti airspace flying at very low altitude over the Azamiyah post at coordinates 713275. At 1010 hours, it returned to the Kuwaiti rear.

5. At 1500 hours on 14 January 1993, two white Kuwaiti Chevrolet vehicles, each containing two persons of whom one was armed with a rifle, were observed at the United Nations observation post located between the Safwan post at coordinates 603318 and the Abdali post at coordinates 612320. The two vehicles subsequently withdrew to the Kuwaiti rear.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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GENERAL

S/25138
22 January 1993

ORIGINAL: ENGLISH

NOTE VERBALE DATED 19 JANUARY 1993 FROM THE PERMANENT MISSION OF SWEDEN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of Sweden to the United Nations presents its compliments to the Secretary-General and, with reference to the latter's note dated 26 October 1992, has the honour to inform him that Sweden holds no Iraqi Government assets such as those covered by paragraphs 1 and 2 of Security Council resolution 778 of 2 October 1992.

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